

**REMARKS**

The above Amendments and these Remarks are submitted under 35 U.S.C. § 132 and 37 C.F.R. § 1.111 in response to the Office Action mailed September 7, 2004.

**Summary of the Examiner's Action and Applicants' Response**

The Examiner has stated that Claims 3 and 11 would be allowable if converted to independent form. The Examiner has rejected Claims 1, 2, 4-10, and 12-18 as being anticipated under 35 U.S.C. 102(e) by Dell, et al., U.S. Patent Application No. 2002/0136230 A1. In this Amendment, Claim 10 has been amended. Claims 1-18 remain pending.

**Response to Rejection of Claims 1-2, 4-10 and 12-18 under 35 U.S.C. §102(e)**

The Examiner has rejected Claims 1, 2, 4-10, and 12-18 as being anticipated under 35 U.S.C. 102(e) by Dell, et al. The Examiner states that Dell, et al. discloses in Fig. 5 and paragraphs [0054] - [0056] all of the steps claimed in Claim 1 and all of the elements in the corresponding apparatus claimed in Claim 9. Applicants respectfully disagree.

The Examiner states that Dell, et al. discloses in Step 501 in Fig. 5, the step where "if the polled queue contains data, refill a deficit value indicating a maximum amount of data that may be sent from this queue", as claimed in Claim 1. Applicants respectfully disagree. In contrast to the present invention, Step 501 in Dell, et al. sets a credit counter for each queue to the queue weight. The credit counter disclosed in Dell, et al. is not a deficit value, as claimed in Claim 1. The Dell, et al. counter is merely decremented every time the associated queue is accessed. The deficit number according to the present invention specifies the number of bits that can be sent by the given queue. Applicants respectfully submit, therefore, that the step of setting a credit counter to the queue weight in Dell, et al. does not disclose refilling a deficit value indicating the maximum amount of data that can be sent from the queue, as claimed in Claim 1.

The Examiner states that Dell, et al. discloses in Step 506 in Fig. 5, the step where, if the deficit value permits, a flag of the queue is set as a second value (active), data is sent, and the deficit value is decreased a corresponding amount for the polled queue, as claimed in Claim 1. Applicants respectfully disagree. Applicants respectfully submit that Step 506 in Dell, et al. merely discloses setting a queue as eligible for service. Step 506 does not disclose any of the following: (1) the sending of any data; (2) any decreasing of the deficit value; or (3) the setting

of a flag, as claimed in this step in Claim 1.

The Examiner states that Dell, et al. discloses in Step 511 on the right-hand side of Fig. 5 the step where if any queue is active after all the queues have been polled, the scheduler goes to a local round, else set a flag of all queues as enabled and start polling the first queue of the order again, as claimed in Claim 1. Applicants respectfully disagree. For the method shown in Fig. 5 in Dell, et al., the left side is for scheduling and the right side is for polling and servicing queues which have been scheduled on the left side. Applicants respectfully submit that, in contrast to Dell, et al., the method of the present invention proceeds to a local round only if any queue is active after all the queues have initially been polled, as claimed in Claim 1. In other words, in contrast to Dell, et al, before proceeding to the local round in the method claimed in Claim 1, queues are initially polled and those with sufficient deficit are "serviced" to cause packets to be sent. Furthermore, the process proceeds to the local round only if any queue is still active after all the queues have been polled (and serviced), as claimed in Claim 1.

For each of the above reasons, Applicants respectfully submit that Claims 1 and 9 are not anticipated by Dell, et al. Claims 2 and 4-8 depend directly or indirectly from Claim 1 and are respectfully submitted as being novel over Dell, et al. for the same reasons as above for Claim 1. Claims 12-16 depend directly or indirectly from Claim 9 and are respectfully submitted as being novel over Dell, et al. for the same reasons as above for Claim 9.

Regarding Claim 4, this claim is directed to a method where the deficit values to be assigned by the scheduling method are weighted. Applicants respectfully submit that Dell, et al. does not disclose a scheduling method using the combination of deficit values and weighting, as claimed in Claim 4. Applicants respectfully submit that Claim 4 is novel over Dell, et al. for this additional reason.

Claim 10 has been amended so that it depends from Claim 9. Claim 10, as amended, depends from Claim 9 and is respectfully submitted as being novel over Dell, et al. for the same reasons as above for Claim 9.

The method claimed in Claim 17 is respectfully submitted as being novel over Dell, et al. for the same reasons as above for Claim 1. The corresponding device claimed in Claim 18 is respectfully submitted as being novel over Dell, et al. for the same reasons as above for Claim 9.

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**Conclusion**

For the above reasons, Applicants respectfully submit that all pending claims, Claims 1-18, in the present application are in condition for allowance. Such allowance is respectfully solicited.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (650) 739-2800.

Respectfully submitted,



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